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West End Association

IN THE MATTER
OF THE
PROPOSED PLANS AND AGREEMENT BETWEEN NEW YORK CENTRAL
& HUDSON RIVER RAILROAD COMPANY AND THE CITY OF
NEW YORK, AFFECTING RIVERSIDE PARK AND THE NORTH
RIVER WATERFRONT.

Report of
Committee on Legislation, Law and Schools
Appendix Showing Proceedings Taken for the Extension and
Preservation of Riverside Park in 1893 by West End
Association, and Legislative Action Thereon.

GEORGE B. SHEPPARD, *Secretary*,
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THE
West End Association

Organized February 1st, 1884.

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West End Association

REPORT OF COMMITTEE ON LEGISLATION, LAW AND SCHOOLS
WITH RESPECT TO PROPOSED PLANS AND AGREEMENT BE-
TWEEN THE NEW YORK CENTRAL & HUDSON RIVER RAIL-
ROAD AND CITY OF NEW YORK PURSUANT TO CHAPTER 777
OF THE LAWS OF 1911.

March 3rd, 1913.

TO THE OFFICERS AND MEMBERS OF THE WEST END ASSOCIATION.

This Committee has had this subject under consideration for some time, and pursuant to the action of the Association at the January meeting. In order that no misapprehension might exist with respect to the facts and conditions of the pending plans and negotiations between the Railroad and the City your Committee has undertaken to acquire at first hand such facts and to report the same to the Association, together with a brief summary of the conditions under which the Riverside waterfront is now occupied by the railroad tracks.

The facts with respect to the present status of the negotiations between the City and the Railroad have been furnished to us by the office of the President of the Board of Aldermen, who is the Chairman of the Special Committee of the Board of Estimate and Apportionment, to which the plans and profiles submitted by the New York Central were referred and which Special Committee has carried on the negotiations with the Railroad. By special arrangement a meeting of the Committee was held at the office of the President of the Board of Aldermen, where a set of the plans and profiles were available for use, and these plans and the negotiations and the present status thereof were fully stated to the Committee by Mr. R. C. Harri-

son, examiner on the executive staff of the President of the Board of Aldermen, and who is familiar with the entire subject. The proceedings of this hearing were taken down stenographically by a court stenographer who attended for that purpose, and a copy thereof delivered to Mr. Harrison, as well as to the various members of the Committee.

In addition to this, a request was made by the Committee upon the general counsel of the New York Central for a set of the plans and profiles, and in compliance with this request the Railroad on the 28th ultimo furnished to us a complete set.

The Committee has had several meetings and the subject has been given careful attention and consideration, and has drawn on such other sources of information as were available to it in addition to the foregoing.

In order to understand the present conditions it is necessary to have in view the circumstances under which these conditions have developed.

Railroad Charter and Agreement with City of New York.

The Hudson River Railroad was organized under Act of the Legislature passed in 1846. By this act the Company was empowered to

“construct a single, double or treble railroad or way between the cities of New York and Albany, commencing in the City of New York, *with the consent of the corporation of the City of New York,*”

and the Act provided that:

“The said directors may locate their railroad on any of the streets or avenues of the City of New York, westerly of and including the Eighth Avenue and on or westerly of Hudson Street, *provided the assent of the corporation of said city be first obtained for such location.*”

The consent of the City prescribed in the Act was granted by an ordinance approved by the Mayor on May 6th, 1847, which, among other things, provided that:

“Permission is hereby granted to the Hudson River Railroad Company to construct a *double* track of rails, with suitable turnouts, along the line of the Hudson River, from Spuyten

Duyvil Creek to near Sixty-eighth Street; occupying so much of the Twelfth Avenue as lies along the shore, thence winding from the shore so as to intersect the Eleventh Avenue, at or near Sixtieth Street; thence through the middle of the Eleventh Avenue to about Thirty-second Street; thence on a curve across to the Tenth Avenue, intersecting the Tenth Avenue at or near Thirtieth Street; thence through the middle of the Tenth Avenue to West Street, and thence through the middle of West Street to Canal Street."

The ordinance further provided for a number of conditions, among others, that:

"Sec. 2, (a) The said Hudson River Rail Road Company shall Grade, Regulate, Pave and keep in Repair, a space twenty-five feet in width, in and about the tracks, in all the Avenues and Streets through which the said track or tracks shall be laid, whenever the Common Council shall deem the interest of the public to require such pavement to be done.

(b) The said Company shall lay such rail track through the Avenues and Streets in conformity to such directions as to line and grade as shall be given by the Street Commissioner, *and shall conform their said Rail Road to the Grades of the Avenues and Streets through which it shall extend, or cross, as shall be from time to time established by the Common Council*, if the latter so require;

(c) and shall lay their rails or tracks, in the Streets or Avenues, in such manner as to cause no unnecessary impediment to the common and ordinary use of the Street for all other purposes, *and so as to leave all the water courses free and unobstructed*.

(d) It shall be especially incumbent on the said Hudson River Rail Road Company, *at their own cost, to construct stone bridges across such of the Streets intersected by the Rail Road as may, by the elevation of their grades above the surface of said road, require to be arched or bridged, whenever, in the opinion of the Common Council, the same shall be necessary for public convenience*:

(e) and also to make such embankments or excavations as the Common Council may deem necessary to render passage over the Rail Road and embankments at the cross Streets easy and convenient for all purposes for which Streets and Roads are usually put to;

(f) and the said Company shall also make, at their own cost and charge, all such drains and sewers, as their embank-

ments or excavations may, in the opinion of the Common Council, render necessary;

(g) and said Company shall be at all times subject to such regulations, with reference to the convenience of public travel through such Streets and Avenues as are affected by the said Rail Road, as the Common Council shall, from time to time, by Resolution or Ordinance direct;

(h) and the Corporation hereby reserves the right to require said Company, at any time after the Eleventh Avenue shall be made to Fourteenth Street, to take up their rails in the Tenth Avenue, and lay them in the Eleventh Avenue to said Fourteenth Street, and through Fourteenth Street to connect with West Street.

Sec. 3. The said Company shall, within one year from the passage of this Ordinance, and before entering upon any contracts for Grading, file in the office of the Street Commissioner a Map showing the location and intended grade of said Rail Road.

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Sec. 6. This Ordinance shall not be construed as binding upon the Corporation, nor shall it go into effect, until the said Hudson River Rail Road Company shall first duly execute, under their corporate seal, such an instrument in writing, covenanting and engaging, on their part and behalf, to stand to, abide by, and perform all such conditions and requirements contained in the second and third sections of this Ordinance as the Mayor and the Counsel to the Corporation shall by their certificate approve, and not until such instrument shall be filed, so certified, in the Office of the Comptroller of this City."

The conditions imposed in this ordinance were accepted by the Railroad by a formal covenant in writing executed by it on August 12th, 1847, in and by which the Company agreed, among other things,

"That the said Hudson River Railroad Company for themselves and their successors, do hereby, in consideration of the premises, covenant and engage to and with the Mayor, Aldermen and Commonalty of the City of New York and their successors forever

That the said Company will lay such railroad track through the avenues and streets in conformity to such direction as to line and grade as shall be given by the Street Commissioner, and shall conform their railroad to the grades of the avenues and streets through which it shall extend, or which it shall cross, as shall be from time to time established by the Common Council, if the latter so require.

And that said Company will lay their rails or tracks in the streets or avenues in such manner as to *give no unnecessary impediment to the Common and ordinary use of the streets for all other purposes and so as to leave all the water courses free and unobstructed.*

And further that said Company will, *at their own cost, construct stone bridges* across such of the streets intersected by the said railroad as may, by the elevation of their grades above the surface of said road, require to be arched or bridged, whenever, in the opinion of the Common Council, the same shall be necessary for public convenience.

And also that the said Company will make such embankments or excavations as the Common Council may deem necessary to render the passage over the said railroad and embankments at the cross streets easy and convenient for all purposes to which the streets and roads are usually put.

And will at all times be subject to such regulations with reference to the convenience of public travel through such streets and avenues as are affected by said railroad as the Common Council shall from time to time by resolution or ordinance direct.

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And that the said Company will, within one year from the passage of the said ordinance, and before entering upon any contracts for grading, file in the office of the Street Commissioner, a map showing the location and intended grade of said railroad.

And lastly, that said Company will stand to, abide by and perform all and singular the conditions and requirements contained in the second and third sections of the said ordinance."

This covenant was approved by William V. Brady, then Mayor of the City of New York, as being in compliance with the ordinance required, and was thereafter filed and still remains upon file in the office of the Comptroller of the City of New York. The map or plan required by the ordinance and agreement was filed, and reference to this will hereafter be made.

In Addition to the Contract Obligations to the City of New York, the Railroad and Manner in Which It Shall be Maintained and Operated Are Subject to the Control of the State.

The Act under which the Company was chartered and by which it was given the right to lay down its tracks concluded with the provision that

"The Legislature may at any time alter or repeal this Act."

In the recent litigation between the Railroad and City of New York, where the question was involved as to whether the *City* could compel the removal of the railroad tracks, the Court of Appeals held that such power was not in the *City*, but in the *Legislature*. The Court, referring to the foregoing provision, said:

"The last section (Section 36) provides that the Legislature 'may at any time alter or repeal this act.' The Legislature has not exercised its reserved power to repeal up to the time of the argument before us. . . . The Legislature chose to make the location of the tracks in the streets of New York dependent upon the assent of the municipal corporation, but it was not under any legal obligation to do so; and the fact that it did so gave the City no authority to withdraw or cancel the franchise after it had once been made effective by the City's consent. Assuming the existence of that power in any one, *it belonged and still belongs to the Legislature* and not to the corporation of the City of New York. . . . Even if it conferred an irrevocable property right, under the doctrine of *People v. O'Brien* it would not follow that it was incapable of modification or regulation by the Legislature as to the manner in which it might continue to be enjoyed. . . . *The interests of the public in the other direction were protected by the reserved right of amendment and repeal.* . . .

The question upon which this litigation turns is whether the plaintiff can lawfully be put off the streets by the *City of New York*. The Act of the Legislature which permitted the Hudson River Railroad Company to go there sixty-five years ago and which the *Legislature has seen fit to leave in full force and effect* ever since compels us to answer that question in the negative."

Chief Judge Cullen, in concurring in the opinion of the Court, said:

"The permission to occupy the street was solely as a means for running from one terminus of the road to the other; nor did the franchise to maintain the road include an unqualified right to maintain it on the surface. The 'power reserved to the Legislature to alter, amend or repeal a charter authorizes it to make any alteration or amendment of a charter granted subject to it which will not defeat or substantially impair the object of the grant or any rights vested under it and which the Legislature may deem necessary to secure either that subject or any public right.' (*Close v. Glenwood Cemetery*, 107 U. S. 466, 476.) *Under this doctrine the Supreme Court of the United States upheld the validity of an act of the Legislature of the*

State of Connecticut compelling a railroad company to abolish, at its own expense, all grade crossings as a valid exercise of the police power. (N. Y. & New England Railroad Co. v. Bristol, 151 U. S. 556.) So in the case before us I think it clear that the Legislature may so regulate the plaintiff's railroad in the City of New York as to remove the constant menace and danger to life occasioned by its present operation."

Railroad Tracks Laid Upon Land Owned by the City of New York.

The location map filed by the Railroad shows a strip of land under water along the shore of the Hudson River from Spuyten Duyvil south not continuous, but in its several parts aggregating in length over four miles. Under the Dongan charter, the Montgomery charter and the grants made by the People of the State of New York in 1807 and in 1826, and other grants prior to the incorporation of the Hudson River Railroad, the City of New York had title to all of the lands under water shown upon the Railroad Location Map.

The State did not in any of the statutes relating to the Railroad convey any land to the Company which belonged to the State or City, either above or under water. It is not contended that the City by the mere giving of its consent that the Railroad might locate its tracks in certain places thereby conferred any title or ownership of the soil upon the Railroad. We mention this because of the claim often asserted by the Railroad that it is the owner of the land upon which its tracks are laid along the North River waterfront, and which ownership is asserted upon the plans and profiles submitted to the City, *and with respect to which the Railroad, as hereafter pointed out, asks the City to release its rights.*

While the City consented that the Railroad might lay down two tracks along Riverside Park, it now has for the greater portion of the distance four tracks. We have been unable to find any authority whatever for the laying and maintenance of these additional tracks.

The Extension of Riverside Park to Include Lands Under Water, by the West End Association.*

No understanding of the subject can be had, however, without a knowledge of the origin and status of Riverside Park.

*For Petition and Proceedings by West End Association, see Appendix, *infra*, p. 30.

Prior to 1894 Riverside Park had been laid out and established from 72nd Street northward to about 129th Street, and extending down to the *easterly* line of the Railroad as shown on its location map. In 1894 the west side was very greatly imperiled by the proposal to establish, among other things, a gas works just above 72nd Street, and other industries of equally objectionable character, and in order to avert this peril the West End Association exerted itself to the utmost, and as a result of these exertions and in order to carry into effect its plans to protect the West Side and Riverside Park, an Act was passed by the Legislature, being Chapter 152 of the Laws of 1894, by which Riverside Park was extended from the *westerly* line of the railroad tracks, as shown on its location map, to what is known as the Central Park Commissioners Bulkhead Line (which is about 500 feet off high water line at 72nd Street), and extending from the southerly line of 72nd Street to the northerly line of 129th Street; with two exceptions. These two exceptions the Association was compelled to submit to in order to obtain the passage of this legislation, and related to the reservation of certain parcels at 79th Street and 96th Street for commercial purposes, to be under the jurisdiction of the Dock Department. The parcel at 79th Street extends 500 feet each way from the side lines of the street, and the parcel at 96th Street extends 362½ feet each way from the side lines of the street. With the exception of these two parcels Riverside Park was extended so as to include everything from the westerly line of the railroad track, as shown on its location map, to the Central Park Commissioners Bulkhead Line; and by the terms of the Act the City authorities were directed to acquire by condemnation proceedings the outstanding title, if any there might be, to any property within that area for such park purposes. Such condemnation proceedings were had and the property so acquired was paid for by the issue of corporate stock. And ever since that time the City of New York has held title to this area in trust for park purposes, and it has been confided to the jurisdiction of the Park Department, with the two exceptions at 79th and 96th Streets, which have been under the jurisdiction of the Dock Department.

It is in this area so held in trust for park purposes by the City of New York that it is now proposed to lay down additional railroad tracks so that from 129th Street southward the New

York Central will have six tracks until 86th Street is reached, where the tracks begin to increase in number, and at 84th Street there will be ten tracks, which continue crossing 79th Street, and at 72nd Street the number will have fanned out and increased to twenty-six tracks in all. It is further proposed that the absolute and unqualified ownership of all of this land now held in trust for park purposes by the City of New York be conveyed to the New York Central, subject to an easement in favor of the City to the extent that the City may maintain over the tracks a roof supporting soil or passageways.

Existing Railroad Legislation and Its Origin.

Prior to the present time various efforts have been made and various agitations had from time to time with respect to a change in the conditions under which the New York Central enjoys railroad facilities in New York City. Among other things there was passed in 1906 what was known as the Saxe Law. This, however, proved entirely abortive. In an opinion rendered by Mr. Justice Gerard in December, 1908, he said that:

“There is no conflict as to the facts in this case. It seems that the old Board of Rapid Transit Commissioners never obeyed this law. They prepared a plan, but this plan did not provide for a subway. . . . The fault lies with the old Board of Rapid Transit Commissioners and not with the present Public Service Commission or the Corporation Counsel. The old Board of Rapid Transit Commissioners failed to take the first step directed by the Legislature.”

With this decision ended the attempt under the Saxe Law to do away with the operation at grade of the so-called West Side tracks of the New York Central.

In 1909 a resolution was adopted by the Board of Estimate and Apportionment which if carried into effect would have required the removal of the tracks of the New York Central. As a result of this resolution the Railroad brought an action against the City of New York in which it sought an injunction permanently enjoining the City from taking any such steps. Both the Railroad and the City injected into the litigation a large number of contentions that the courts refused to pass upon. It was held in the court below that the City did not have the power to require the Railroad to remove its tracks, but that

such power resided solely in the *Legislature*. This was upon the theory that the rights originally granted had been granted by the Legislature, and *only the Legislature, which had reserved the right to repeal or amend the Act granting such rights, had such power*. This result was affirmed in the Court of Appeals. It is from the opinion of the Court of Appeals in this case that quotation was made in the earlier part of this report (*infra*, p. 7). The decision of the Court of Appeals was announced May 15th, 1911, and on July 25th, 1911, the Legislature passed the Act known as Chapter 777 of the Laws of 1911, from which the present situation has resulted. This Act has frequently been called an enabling Act; meaning thereby that the Legislature has given to the City of New York power to do things which without such Act it could not do.

Legislative Bills Prepared by the Dock Commissioner, the Mayor and the Railroad.

It has been stated publicly by one of the engineers employed by the City that the Act was "drawn jointly by the New York Central officials and the Corporation Counsel of the City." But in a communication to the Mayor dated September 24th, 1912, the Dock Commissioner, after referring to previous discussion of the West Side waterfront matter, stated:

"I therefore had prepared and submitted drafts for three classes of enabling legislation:

1. An enabling act to empower the City toward the acquisition, construction and operation of up-to-date freight terminal facilities.

2. An act under which your Board was specifically empowered to readjust the franchises of the New York Central Railroad at the West Side of Manhattan.

3. A freight terminal incorporation act to facilitate the co-operation in this regard of private capital and public service.

With the co-operation of your Board and especially of his Honor the Mayor and the Corporation Counsel, the proposed legislation was enacted July 25, 1911, as Chapters 776, 777 and 778 of the Laws of 1911."

However, in a communication to the Mayor dated November 2nd, 1911, the Dock Commissioner stated that while in

preparing the bill he had "fully consulted the Central Railroad," yet, nevertheless, a provision contained in the bill as originally drafted by him which would prevent the taking of any part of Riverside Park by the Railroad east of the Railroad's present line was eliminated from the bill at the instance of the Railroad before it was enacted. In the former communication the Dock Commissioner said:

"By the Act, Chapter 777 of the Laws of 1911, under which it is now proposed to readjust the Central's franchises, that road is permitted to become the contractor of the City for such construction as may be required in the premises, and under the City's Freight Terminals Act, Chapter 776 of the Laws of 1911, it can become the City's lessee for operation."

Outline of Chapter 777.

Briefly this Act, Chapter 777 of the Laws of 1911, authorizes the New York Central to prepare and submit to the Board of Estimate and Apportionment plans and profiles showing the proposed changes that the Railroad desires to make in its tracks and facilities within the City of New York and permits the City to make amendments to these plans; and authorizes the City and the Railroad to enter into an agreement as to the terms and conditions upon which said plans shall be carried into effect, and when the final plans are agreed upon requires that they be filed in certain offices in the City of New York, and that the map of the City of New York be thereby amended in accordance with such plans. The Act further provides that the *plans so adopted may be amended from time to time on application of the Railroad* to the Board of Estimate and Apportionment. *It does not contain any requirement that any particular notice, public or otherwise, of such application shall be given.* With respect to that part of the plans and agreement operative north of Dyckman Street the Act provides in substance that it is optional with the Railroad to carry out such plans at such time in the future as it may desire, unless the agreement made with the City requires immediate change in this respect. The Act requires the substitution of electric for steam power within four years from the date of the contract between the City and the Railroad.

The Act contains nothing in detail as to the nature of the plans, and there is nothing to indicate that the Legislature by

the passage of the Act either had any knowledge of or in any wise approved of any plans or profiles that might be submitted thereunder; nor is there anything in the Act that directly authorized the City of New York to abandon any property held in trust for park purposes or other trust, nor is there anything that impliedly suggests that any such question was brought to the attention of the Legislature.

Plans and Profiles Filed and Action Proposed Thereon.

Following the passage of this Act on September 28th, 1911, certain plans and profiles were submitted to the Board of Estimate and Apportionment by the New York Central. These plans consisted of 39 sheets each substantially two feet in width by five feet in length. These plans and profiles were by the Board referred to a Committee consisting of the President of the Board of Aldermen, the Comptroller, the President of the Borough of Manhattan and the Chief Engineer of the Board.

Under date of October 3rd, 1912, such Committee made a report to the Board of Estimate and Apportionment. In this report the Committee stated that when these plans were filed they were referred to the Dock Commissioner for his criticism and report, and that on November 2nd, 1911, the Dock Commissioner submitted a critical report expressing, among other things, the opinion of the Dock Department that the *City should retain control of a continuous waterfront strip at no point less than 100 feet in width*, and at certain strategic points not less than 150 feet in width, which marginal way in the opinion of the Dock Commissioner would be sufficient for *commercial purposes* and preserve the entire waterfront for *general commercial development*; and the Committee goes on to state that "*it has adopted the view of the Dock Commissioner.*" The view of the Dock Commissioner adopted is stated by him in his report as follows:

"If the reservations for public use indicated on the Dock Department's maps are adopted by your Board, they will have the effect of keeping for the City control of its waterfront *above Seventy-second Street*. There is a line in the river westward of which it will be difficult and expensive to make solid fill, on account of the character of the river bottom. Reservation of a strip of land to the eastward at least 100 feet wide is therefore shown, which can be filled in and made available for public use for park or commercial purposes. In other words, a prac-

ticable marginal way along the waterfront, between the river and the Company's tracks should be left in control of the City. In localities where commercial development exists, or is anticipated, this width of 100 feet is increased."

By the map then filed by the Dock Commissioner as a part of such report the land so reserved for a *marginal way* is indicated by a green line and *shows the full length of Riverside Park from 72nd Street to 135th Street*, where it is interrupted by the proposed yard and pier extensions of the New York Central extending to 148th Street. In order that there may be no misapprehension as to the meaning of this marginal way the Dock Commissioner in the report referred to further says:

"The Company's plans show a fanning out of the trackage from 86th south to 72nd Street, as an approach to its great yard, thus in effect including this park section within the limits of the proposed yard. A wide approach to the yard may be commercially desirable, but City park lands here should be extended over the railroad as a condition of any City concession.

If the Company shall acquire all the land it asks from the City south of 79th Street, there will not be sufficient room between the railroad and the bulkhead to permit of the City's commercial development in that locality. The Company shows ten tracks at 79th Street so separated as to provide for passenger platforms. If the Company conforms to the restrictions noted in the Department's plans, it will be able to secure ten tracks by narrowing the space from centre to centre, and by omitting the passenger platform. But if the platform is essential for future City traffic, then it will be necessary to widen the Central's right of way easterly under Riverside Park. To maintain six main tracks in the vicinity of West 89th Street it will be necessary to move the Central's tracks about thirty feet under Riverside Park. If, however, it can be arranged so that the Park Commissioner's bulkhead line at this point shall be removed out-shore about thirty feet, the City can still retain its 100-foot marginal right of way and permit the Central to construct six tracks without going under the park."

After having stated that it "had adopted the view of the Dock Commissioner," the Special Committee in its report of October 3rd, 1912, goes on to say: That since the reference of the plans to it a number of conferences had been held with the officers and engineers of the New York Central, with the Dock Commissioner and his engineers and counsel; that the plans had been studied in detail from a point north of the Harlem Ship

Canal to the 60th Street yard; that south of the 60th Street yard the Committee had at that time considered only the general aspects of the problem, but that meanwhile it was in a position to make an interim report concerning that portion of the line north of 60th Street; and reported that it may be said generally with reference to the plans of the Railroad between 60th Street and the Bronx that they were satisfactory to the Committee as filed, with certain important exceptions which suggested changes of two kinds, one of which had been adjusted to the satisfaction of the Committee and might be placed on amended plans without further negotiation, and the other of which were still the subject of negotiation, but at a point where early adjustment seemed reasonably certain. The report then, under fourteen separate headings, refers respectively to the tracks in the Borough of the Bronx between the City line and the Harlem Ship Canal, the crossing of the Harlem Ship Canal, the crossing at Dyckman Street, the land required for freight terminal purposes immediately south of Dyckman Street, treatment of the cut through Fort Washington Park, the track alignment and marginal way between 161st and 155th Streets, land required for terminal purposes between 153rd and 137th Streets, the track alignment and marginal way between 135th and 129th Streets, roofing of tracks between 122nd and 72nd Streets, adjustment at 96th Street, adjustment at 79th Street, real estate adjustment in the 60th Street yard, general question of real estate adjustment between the City and the Company, and adjustment of harbor lines; and concludes with a summary of the results which the Committee conceives the negotiations have produced.

Your Committee has concerned itself chiefly with the proposed disposition of Riverside Park, that part of the railroad facilities lying between 72nd and 129th Streets; though necessarily some reference must be made to other parts of the plans. A set of the plans as originally filed are on view at the time that this report is submitted and are open for inspection with respect to the details of the various yards and facilities which the Railroad plans at Dyckman Street, Manhattanville, 60th Street, 30th Street and St. John's Park.

With respect to the conditions between 72nd Street and 129th Street, the Special Committee of the Board of Estimate in the aforesaid report dated October 3rd, 1912, said:

"9. ROOFING OF TRACKS BETWEEN 122D AND 72D STREETS.

Your Committee has insisted throughout the entire negotiations that the tracks along Riverside Drive should be roofed. The railroad company has agreed that this roofing should be done between 122d and 72d Streets, but has not agreed as to the division of expense in the manner insisted upon by your Committee.

Your Committee has submitted to the Company a plan which it considers to be perfectly fair to both the City and the Company. The tracks along Riverside Drive are to be increased in number. It follows that the nuisance will be proportionately increased. Your Committee has suggested that the Railroad Company, at its own expense, pay for the elimination of the nuisance created by the additional tracks. So far as the existing tracks are concerned, your Committee has suggested that the expense of roofing be borne equally by the Railroad Company and by the City.

The Railroad Company agrees that it should bear the expense of roofing the new tracks, but insists that it should not be asked to bear any portion of the expense of roofing the existing tracks. The Company's argument is that any roof is a disadvantage from an operating standpoint, and that in submitting to roofing, it has gone as far as it feels justified in going in the matter. Your Committee does not at all agree with this contention. The City of New York is asked to sell to the Railroad Company valuable waterfront property and lands under water, which it would not part with to any other purchaser, nor except as a part of the present proposed general adjustment. While it is true that the Railroad Company is to pay for these lands at their appraised value, there is over and above such value an additional consideration which cannot be accurately measured in money, due to the willingness of the City to sell at all. It is the contention of your Committee that this consideration is sufficient to justify insistence by the City upon the Railroad Company sharing in the expense of roofing the existing tracks.

From 79th to 72nd Streets, the main line tracks begin to fan out as a lead to the 60th Street yard, until at 72nd Street they occupy a width of 379 feet. Your Committee has insisted that the general welfare of the City demands that this space be entirely roofed over. The Railroad Company has insisted that while it is possible to operate main line through-tracks under roof, it is very difficult to operate a *freight yard* under cover. The Company has consented, however, to have its engineers prepare plans for roofing in whole or in part this yard space, and your Committee is convinced that a satisfactory plan can be worked out. The problem is difficult, and it might be fair for the City to bear a greater portion of the expense of roofing the tracks at this point than along the main line.

10. ADJUSTMENT AT 96TH STREET.

The Commissioner of Docks pointed out in his report the necessity for the retention by the City of a strip 150 feet wide at 96th Street. In order to accomplish this, and at the same time permit the New York Central to construct its tracks as planned, it will be necessary to extend the present bulkheads outshore about 35 feet. This would disturb the buildings of several lessees of the City bulkheads operating important freight handling facilities at this point. The Railroad Company has agreed that it will pay for the extension of the bulkheads, and will bear the expense involved in the readjustment of leases.

The present piers will be slightly shortened by the construction of the railroad tracks as proposed. The Company agrees to extend the piers a corresponding distance, or, in the discretion of the Dock Commissioner, to pay for an equivalent amount of space at some other point on the river front.

"11. ADJUSTMENT AT 79TH STREET.

Seventy-ninth Street is another of the points where, in the opinion of the Dock Commissioner, a 150 foot marginal way should be reserved for the City's use. The Railroad Company has expressed its willingness to bear the expense of extending the bulkheads at this point by means of piles and platforms sufficiently to give the desired width. The adjustment is satisfactory to your Committee."

In view of an observation hereafter made in this report with respect to conditions at 79th Street and 96th Street, we here quote further from the report of the Board of Estimate's Committee the following:

"12. REAL ESTATE ADJUSTMENT IN THE 60TH STREET YARD.

The City owns the beds of Twelfth Avenue and the cross streets, which the Railroad Company proposes to acquire for its yard purposes at this point. Your Committee recommends that here, too, the Railroad Company be given a permanent easement for railroad purposes rather than a fee. At the present time most of the land is actually occupied by the New York Central's yard tracks. The Company has not, however, clear title to the land lying in the beds of the streets crossing the yard. This condition presents a checker-board type of ownership which, while of no practical advantage to the City, is unnecessarily burdensome upon the railroad. *It is the opinion of your Committee that the control of the land lying within the limits of this yard should be in the Railroad Company, and that to this end the railroad be given a permanent easement for*

railroad purposes which will permit it to make the necessary permanent improvements at this important freight distributing point."

The further discussion of matters in said report would unduly prolong the report of your Committee.

Status of Negotiations at Date of This Report, as to Proposed Disposition of Riverside Park.

A further report to the Board of Estimate and Apportionment by its said Special Committee is now ready for submission, but copies are not available prior to submission to the Board. However, at a meeting of your Committee held at the office of the President of the Board of Aldermen on February 21st, 1913, a set of the plans and profiles being used, the present condition of the negotiations between the City and the Railroad insofar as they relate to this particular district were explained to your Committee by Mr. R. C. Harrison, examiner on the executive staff of the President of the Board of Aldermen, to be substantially as follows:

Running southward from the Manhattanville yard the six main line tracks of the Railroad cross 130th Street over a viaduct and come to grade at 122nd Street, and continue as six tracks to 86th Street, where the tracks begin to increase in number, *and at 84th Street there are ten tracks, which continue to 79th Street, where the tracks rapidly begin to increase in number, so that at 72nd Street there are twenty-six tracks occupying a space 379 feet in width.*

Quoting now from the stenographic transcript of Mr. Harrison's explanation, he says:

"The Company has agreed to put in a solid roof between the southerly line of West 72nd Street and the northerly line of West 122nd Street, covering both the old tracks and the new, that is to say wherever we give them an extended area over what they have now, *the roof will be carried to the extreme westerly edge* of the new right of way, and the roof will be a solid deck without openings, built in such a way that it will carry four feet of earth. The treatment of the top of that roof has not been decided upon for this reason, that we are so arranging it that we may make it a park if we want, that is a park in the sense of a dirt covered area which may be planted with bushes and trees, or it may be a drive, or it may be desirable to make that into a public esplanade simply for pedestrians. In

the latter case it will cost a little less, because the structure need not be quite so heavy. The present disposition is to make it a combination park and drive, making it heavy enough to carry the necessary earth, together with the necessary vehicular traffic. For a long time the Railroad Company contended very strongly that they should not roof the section between 72nd and 79th Streets, because *that is the neck of their 72nd Street yard*. But no matter what anyone may tell you to the contrary, the roof is to be absolutely solid between those points, and to eliminate the nuisance entirely. Another thing you should bear in mind all through this discussion of the New York Central problem, and that is that the engines, the present steam engines, are all to be removed and the operation from the City line south is to be entirely electric, thus doing away with the incidental noise and smoke and soot and dirt of the present steam operation. . . .

The roof, as I say, will be solid from 72nd Street to 122nd Street, at which point the tracks rise on a viaduct across Manhattan Valley, crossing on an elevated structure in front of the 125th Street Ferry and one hundred and fifty feet from the bulkhead, leaving a clear marginal way of one hundred and fifty feet in width for commercial purposes at that point, and coming down again to grade at the new Manhattanville yard somewhere between 139th and 141st Streets, gradually coming down on a ramp into this new freight yard. Now, beginning *at 135th Street and running to 151st or 152nd Street, this new yard layout is to be made*. As you have probably noticed from the plans it was originally of considerable size. That yard is a very necessary yard so far as the commerce of the port is concerned. It is the mid-town distributing depot for food products. At the present time they are using what tracks they have for the distribution of milk and perishable food products and light freight destined for the upper parts of the city. And they have contended, and we have conceded, that it was very important that they have a yard of considerable size at those points."

It was further stated to your Committee that the City's engineers had reported that this was the smallest possible yard that would suffice for the necessary development of traffic at Manhattanville, by development of traffic meaning *storage yard, classification yard, receiving and distributing yard* largely for food products to the City at large.

"Between the southerly line of 72nd Street and the northerly line of 122nd Street it is proposed and agreed to roof solidly to the extreme westerly line of the Railroad Company's present *or future* right of way. In other words, there will be no tracks and no right of way that is not solidly decked. *The easement*

over that deck will belong to the City of New York, and can be used by the City for park purposes and esplanade purposes or other purposes. North of 122nd Street it will come out on a sufficient clearance to cross the Manhattanville Valley, and then will come out on the grade of this yard. . . .

There are certain things which, so far as the money is concerned, are not agreed upon between the City and the Railroad Company, that is as to sharing costs at various points; but there is no disagreement as to the physical plan. The physical plan is decided upon and agreed upon by all hands. The only question is how much the Railroad Company will pay as its share and how much the City will pay."

Seventy-ninth Street is to be carried over the railroad tracks by a slightly ascending grade from Riverside Drive, and on the westerly side of the tracks the viaduct turns at a right angle to the south and the traffic comes down to dock level on an inclined plane or ramp at a grade of about five degrees, reaching the surface about opposite 77th Street. In substantially the same manner 96th Street is to be carried across the tracks, except that in that instance the inclined plane or ramp will descend to the northward.

**No Access to Waterfront Between 59th Street and 153rd Street,
Except at 79th Street, 96th Street and Manhattanville.**

Other than by these two crossings and inclined planes there will be no access to any part of the waterfront between 72nd Street and 129th Street; and when it is borne in mind, as hereinafter pointed out, that the railroad now occupies and proposes to continue to occupy all of the waterfront as far south as 59th Street, it means in effect that there will be no public access to the waterfront between 59th Street and 130th Street, except by these two ramps; and all streets from West 137th to West 153rd Street inclusive, closed and discontinued.

As your Committee is now definitely informed, *this roof over the tracks does not extend beyond the southerly line of 72nd Street or beyond the outerly track of the railroad, and while there are no openings in the roof proper, it is open on the 72nd Street side and also along the waterfront its entire length.*

**According to Mr. Goodrich the Present Residents of a Large Area
Will Be Forced to Move Away, and Property Will Depreciate.**

With respect to whether these proposed plans resulting as they do in a radical change, are beneficial or detrimental to the particular district in which the West End Association is concerned, different contentions are made. In this connection your Committee deems it its duty to submit to you the views of Mr. E. P. Goodrich, one of the consulting engineers of the City of New York associated with the office of the President of the Borough of Manhattan, and who is entirely familiar with the various plans and negotiations. These views were expressed by Mr. Goodrich on the 4th of February, 1913, in an address given to the Riverside Branch of the Women's Municipal League and (quoting from the stenographic transcript) are as follows:

“(Q.) A Member: Will there be depreciation of values as the result of these changes?

Mr. Goodrich: At *some* points, *inevitably*. *It is impossible to prevent that*. In any case, as business changes, property will rise and fall in value. Around Worth Street, for instance, this has occurred on two occasions. At first it was resident property, and then it was changed to manufacturing; then that went, and there was a great depreciation. But I can see how the market is moving away from that depreciation, and some day it will be an office building location, with very high values.

Mrs. Bryan: *Is not the New York Central going to drive the residential section away?*

Mr. Goodrich: *That is, only the section between 79th and 72nd Streets will be affected, and I think the change will relieve the residential portion of all noise, so that there will be very little trouble there. But the people of the highest class will leave that vicinity, and the quality of the occupancy will change. This is being effected in parts of every city in the United States.*

Mrs. Bryan: Now are they safeguarding the landscape advantages of the City? That is important.

Mr. Goodrich: There will be the whole Riverside Park, from 79th to 122nd Street, which will be highly improved in value. It will be increased in area, and in park treatment.

There will be no freight yards at 129th Street.

The only thing for any one to do who is studying city planning is not to attempt to hold present conditions; if you do, you are going against a movement which cannot be overcome; *you will have to adapt your movement to the conditions*. Evolution is going on in city development, just as it is in plants and animals. The city planner today must try to fit everything to the new conditions, to the constant movement that is going on

and that will go on in one form or another—to fit the conditions, as they change, *so that certain individuals will have to move away from certain districts, because those districts cease to fit into their scheme of life.*

Mrs. Bryan: *Where can they go, if freight yards go everywhere?*

Mr. Goodrich: *You can go to the district around Fort Washington; there is plenty of space there."*

When this opinion came to the attention of your Committee it obtained from Hon. Lawson Purdy, President of the Board of Tax Commissioners, a statement of the assessed valuations upon the area between 71st Street, 80th Street, Amsterdam Avenue and the North River, being the smallest district that it seems to your Committee would be affected by the changes indicated by Mr. Goodrich. The assessed valuations of this property for the year 1913 amount to \$53,404,000.

**The Proposed Plans Necessitate an Enormous and Increasing Commercial Use and Nuisance at 79th and 96th Streets,
Under Control of the Dock Department.**

Although the report of your Committee has necessarily been very greatly extended, there are certain observations with respect to the subject that your Committee feels it to be its duty to make.

As a concession and in order to obtain the enactment of Chapter 152 of the Laws of 1894, extending Riverside Park to the Central Park Commissioners Bulkhead Line, the West End Association was compelled to submit to the exception of two parcels for commercial purposes, one at 79th Street and the other at 96th Street, to be under the jurisdiction of the Dock Department. A most extraordinary situation now results and will doubtless be greatly accentuated in the future should conditions with respect to the use of these two parcels be carried into effect in accordance with the proposed plans.

According to these plans there is no street between 79th Street and 59th Street over which there is any access to the river front or to any piers for hauling purposes, such as the removal of garbage and the distribution of building material. With reference to the streets below 79th Street the Special Committee of the Board of Estimate in its report of October 3rd, 1912, said:

“12. REAL ESTATE ADJUSTMENT IN THE 60TH STREET YARD.

The City owns the beds of Twelfth Avenue and the cross streets, which the Railroad Company proposes to acquire for its yard purposes at this point. Your Committee recommends that here, too, the Railroad Company be given a permanent easement for railroad purposes, rather than a fee. At the present time most of the land is actually occupied by the New York Central's yard tracks. The Company has not, however, clear title to the land lying in the beds of the streets crossing the yard. This condition presents a checkerboard type of ownership which, while of no practical advantage to the City, is unnecessarily burdensome upon the railroad. It is the opinion of your Committee that the control of the land lying within the limits of this yard should be in the Railroad Company, and that to this end the railroad be given a permanent easement for railroad purposes which will permit it to make the necessary permanent improvements at this important freight distributing point.”

Your Committee also calls the attention of the Association to the large amount of waterfront, including street ends, that it is proposed to place under the control of the Railroad at the Manhattanville yards. *As a result of being deprived of access to the waterfront between Manhattanville and 59th Street, except at 79th Street and 96th Street, an enormous development of traffic has been converged at these two points.* At both 79th Street and 96th Street are garbage dumps, and to these points, especially at 79th Street, large quantities of garbage, ashes and other refuse are removed, including excavated material from building operations; while great quantities of building and other heavy material are landed at these docks and thence removed to various parts of the City by wagons and auto-trucks. For some time past large quantities of sand and gravel and other material for concrete to be used by the Aqueduct contractors have been landed at 79th Street, and powerful auto-trucks carrying several tons at a load are engaged during the day *and throughout the night* in conveying this material to different parts of the City. The dirt and confusion resulting from this traffic constitutes if possible a greater nuisance than that of the railroad.

High Coal Structure Now Erected at 96th Street.

At 96th Street in addition to the garbage dump and handling of building materials, there are a number of large and unsightly

coal-pockets where an enormous traffic in the merchandising of coal is carried on. *At this point there has been erected under the jurisdiction of the Dock Department one of the most unsightly concrete coal-pockets that can anywhere be seen. Moreover, the premises surrounding it are littered with obsolete and discarded coal wagons and other material and present a most unsightly appearance.* There is also located here a stable where horses used in the coal traffic are stabled. Not only are these coal-pockets and the enormous piles of sand and gravel at 79th Street, together with the great mass of unused wagons and materials with which both premises are littered, an illustration of *what may result under color of a commercial use* of the waterfront with jurisdiction vested in the Dock Department, but they constitute an exhibition to all of the visitors, domestic and foreign, to the City of New York to what the City of New York and its inhabitants are willing not only to tolerate but to sanction. Moreover, upon every visitation of our own or any foreign fleet which chooses to utilize the North River anchorage, there is displayed to them not only these unsightly uses, but they are exposed to and sleep in the odor of the garbage dumped at these two points by municipal sanction. This condition exists either in conformity with or in total disregard of the provisions of Chapter 152 of the Laws of 1894 extending Riverside Park, as heretofore explained, contained in Section 9 thereof as follows:

"But no portion of the said lands, bulkhead or waterfront herein set apart for commercial or dock purposes shall be devoted to any other use or purpose, and no building, shed or any other structure shall be placed upon or within the same which shall in any manner be detrimental to the health of the public or injuriously affect the public use and enjoyment of said Riverside Park as hereby extended, or property fronting thereon, or be in any other respect a public or private nuisance."

Your Committee can discern no reason why these structures and this traffic should not be eliminated from 79th Street and 96th Street and access for the purposes thereof restored to the City of New York over the various streets running to the North River below 72nd Street and at Manhattanville.

The Proposed Disposition of the North River Waterfront Is Radically Different From That Advocated for Other City Property.

The attention of the Association is further drawn to the fact that very recently the Dock Department has publicly

advocated the control by the City of New York of *its waterfront and terminal facilities*, going so far in this direction as to recommend the purchase by the City of the Bush Terminal, recently constructed by private owners, and such recommendation has actually been favored by a Special Committee of the Board of Estimate and Apportionment, some of whose members are also members of the Committee having this matter in charge. The Dock Commissioner has further advocated the erection of an elevated freight railroad below 60th Street, to be constructed by the City with City funds and to be leased for operation to the New York Central Railroad. In its report of October 3rd, 1912, the Special Committee having these plans under consideration stated that on November 2nd, 1911, the Dock Commissioner had submitted a critical report outlining the general principles of waterfront control which he considered should be adopted by the City, and pointing out in what particulars the plans submitted by the New York Central Railroad Company failed to carry out those principles; that it was the opinion of the Dock Department that the City should retain control of a continuous waterfront strip at no point less than 100 feet in width and at certain strategic points not less than 150 feet in width, which views were adopted by the Special Committee. Whatever of soundness there may be in the principle of municipal ownership and control of waterfront and terminal facilities and in the purchase of certain facilities as the Bush Terminal, your Committee has been unable to perceive why this principle should cease to operate when 60th Street is reached, *and the enormously valuable terminal and waterfront facilities from that point northward to the City line are placed irrevocably and irretrievably under the dominion of the New York Central & Hudson River Railroad Company.*

If there is any force whatever in the contention that the City should own and control its waterfront and terminal facilities and in particular should be the purchaser of the Bush Terminal in order to give effect to such policy, your Committee sees no reason why that principle should not apply to the enormously valuable waterfront and terminal facilities on the westerly side of Manhattan Island and extending northward to the City line, and lying alongside the port of call of the new thousand ton barge canal at Dyckman Street; built by the State at an outlay in excess of \$100,000,000.

**The Diversion of Park Lands to Railroad and Commercial Uses
Would Be a Breach of Faith With Property Owners and
Residents, and an Infringement of Property Rights.**

Your Committee desires to revert again to the fact that the land which it is now proposed to convert into a railroad yard from 72nd Street northward *is held in trust by the City of New York for park purposes*, pursuant to Chapter 152 of the Laws of 1894, and the proceedings taken thereunder. *Upon the faith of this condition millions of dollars have gone into the improvement of property along Riverside Drive and in the territory to which this Association is particularly devoted, and many thousands of people have been led to make their homes within such district by reason thereof.* We have already called attention to the opinion of Mr. Goodrich with respect to the effect of this change in condition upon the territory north of 72nd Street. It is the view of your Committee that the City has no moral right to convert the property held in trust for park purposes to a railroad use even upon the receipt of a monetary consideration; that not only would it constitute a breach of faith with all of those who have acquired property and made valuable improvements and those who have come into the neighborhood, but that it would constitute an actual breach of trust on the part of the City of New York in diverting to railroad yard uses the property now held in trust for park uses; and that at the suit of any or all of the owners of property abutting upon Riverside Park both the City of New York and the New York Central & Hudson River Railroad would be adjudged liable for the depreciation of value of such property owners; that the trust created in the City of New York constitutes a contract between the City and such abutting property owners, the obligation of which both the City and the Legislature of the State of New York are prohibited from impairing by the contract clause of the Constitution of the United States.

**The Proposed Solid Roof Is an Insufficient Protection Against the
Railroad Use.**

Even if this were not so and assuming the best of intentions on the part of present and future managements of the New York Central, it is impossible to suppose that the discipline of train crews could be so maintained as to prevent the storage upon this large number of tracks northward of 72nd Street,

which are leads to the stockyards at 60th Street, of quantities of cars and trains containing hogs, sheep, cattle and other live stock and freight emitting objectionable odors; and that notwithstanding the roofing proposed to be placed over the said tracks, the necessary circulation of air currents under the southerly end and along the westerly side of this roof would result in the odors from such traffic being wafted over the entire residential district. Moreover, in this connection your Committee has been advised by competent landscape architects and engineers that the soil underneath the water northward of 72nd Street is of such a character that the expense of construction of the character required to support such a roof would be almost prohibitive, and it is extremely doubtful whether such roof, even if now agreed upon, would be found to be practicable of erection; and in this view the fact cannot be lost sight of that the Act authorizes that the plans and profiles may at any time be amended by the Board of Estimate and Apportionment on the application of the Railroad, without notice. From the same source your Committee is advised that even if such roof were erected with strength and provision for carrying four feet of soil, it would be practically impossible to maintain vegetation thereupon; this results from the fact that the vegetation is exposed to the rigor of winter and the heat of summer not only on the upper, but also on the lower side; and that under such conditions experience has demonstrated that plant life cannot exist.

Conceding all that may be claimed for the necessity of additional and permanent facilities for the New York Central and that it is most desirable that "the greatest seaport on the continent" should have facilities for handling commerce commensurate with its greatness, your Committee is unable to perceive why either the commerce of the port, the abatement of the present railroad nuisance or the acquisition of permanent terminal facilities by the New York Central should be accomplished by the spoliation of Riverside Park or of the destruction of property values that the proposed plans and intended agreement import.

So far as Riverside Park is concerned it seems to your Committee that every consideration of public spiritedness, generosity and fairness toward the New York Central, the Port of the City of New York and the commerce of the Nation entering through

such port and transported over such railroad would be amply satisfied by granting to the railroad an easement for four tracks from 72nd Street northward, the construction thereof as well as the carrying of the park surface over the same and the necessary filling and landscaping of the park to be done at the expense of the railroad, and taking from the railroad the necessary rights of access to the waterfront over streets below 72nd Street, to which the commercial traffic now carried at 79th Street and 96th Street should be transferred.

Lands Now Being Filled In.

In concluding this report your Committee desires that the Association should understand that for some time past under permission granted by the Park Commissioner the contractors excavating for the new subways and the Aqueduct tunnel have been dumping the excavated material northward of 79th Street and southerly of 129th Street, filling in the waterfront at these points out to what appears to be the bulkhead line; and this filling in has proceeded now so that several blocks northwardly of 79th Street and southwardly of 129th Street are already filled in. Your Committee is informed that this permission was granted to the contractors gratuitously by the Park Commissioner, and so far as the contractors are concerned it operates to save them the expense of removing the excavated material, which is ordinarily about 60 cents per load. The total amount of excavated material that may be filled in under this permission amounts in the aggregate, your Committee is informed, to about 2,000,000 cubic yards. Moreover, it will readily occur to the members of the Association that when this filling in has been completed, which the observation of your Committee shows to be on a level with the present tracks of the New York Central, that a right of way would not only have already been provided for the New York Central, but the filling in actually have been done.

As to the Dock Commissioner's plan for a marginal strip 100 to 150 feet in width reserved for commercial purposes and running the full length of Riverside Park, recommended in his report of November 2nd, 1911, and shown on the maps and plans submitted therewith, it seems almost incredible to your Committee that the Special Committee of the Board of Estimate and Apportionment could have consciously adopted it; yet in

its report of October 3rd, 1912, that Committee states that it "has adopted the view of the Dock Commissioner and has insisted upon and secured a modification of the plans as filed so as to obtain this important result."

Further than mere mention of the fact that *the yards at 72nd Street lead to a stockyard at 60th Street and to large terminal stores and markets at 60th Street*, your Committee feels that no further mention is necessary and respectfully submits this report for such action, if any, as the Association may deem proper.

This report is concurred in by Messrs. James A. Deering, Joseph A. Arnold, Charles W. Lefler and Thomas P. McKenna; being the only members of the Committee who have participated in the labor imposed upon it.

Respectfully submitted,

CHARLES L. CRAIG,
Chairman.

APPENDIX A.

PETITION OF WEST END ASSOCIATION AND PROCEEDINGS FOR EXTENSIONS OF RIVERSIDE PARK WESTERLY OF HUDSON RIVER RAILROAD.

PETITION TO THE BOARD OF STREET OPENING AND IMPROVEMENT.

At a meeting of the Board of Street Opening and Improvement, held at the Mayor's Office on Friday, November 17, 1893, at 11 o'clock A. M., pursuant to notice, the following petition was presented:

To the Honorable the Board of Street Opening and Improvement of the City of New York:

GENTLEMEN :

The undersigned, property-owners in and residents of the West Side, respectfully request that the westerly boundary of Riverside Park be extended to the bulkhead line on the Hudson River, as established by Chapter 288, Laws of 1868, or as nearly thereto as may seem advisable, and that in connection therewith provision be made for the roadway of the Hudson River Railroad Company and such suitable docks or piers as may be deemed to be necessary at or in the vicinity of the Seventy-ninth and Ninety-sixth Streets, not to exceed one block frontage on either side of the said Seventy-ninth and Ninety-sixth Streets, the only streets which afford access to the river front.

Your petitioners respectfully represent that immediate action to this end is not only necessary for the protection of the park and the property fronting thereon, but for the security of the entire West Side lying between Riverside and Central Parks.

The Riverside Park, by reason of its location, if improved and protected from nuisances along the river front, will be the most beautiful park in the city, affording means for public recreation and enjoyment not elsewhere possible. More than twenty-five years have passed since the park was laid out by the Commissioners of the Central Park, and more than twenty-one years since the City acquired title to the land at an expense of \$6,000,000, and yet but a small portion of the land thus acquired has been improved so as to be capable of public use. West of the main drive nothing more than temporary provision has been made, and the public is still deprived of its use and enjoyment, and the property-owners in its vicinity of those benefits for which an assessment of over \$3,000,000 was imposed in the year 1872.

We believe that the principal reason for this delay on the part of the public authorities to complete the Park, and of the hesitation and

refusal of owners to improve their property, is that in front of the Park is a large strip of land, lying originally below high-water mark and now partly made land, set apart for no public use or purpose, has been a constant menace to owners and investors, and without which no permanent plan for the completion of the Park can be carried into effect. It is not needed, and can never be made useful for commercial purposes. The greater part of it is owned by the City, but the portion not so owned may be and can be at any time devoted to uses for business, or otherwise, which would destroy not only the beauty and advantages of the Park for public use, but be a great and irreparable damage to the property adjacent thereto and upon all the intersecting streets connecting with it. Already a portion of the land has been appropriated for purposes and uses of this character, and others are threatened, which, for the want of early action, may be more offensive and detrimental to the health, comfort and convenience of the residents in that part of the City than any now existing upon any other portion of the water-front of the City.

Your petitioners earnestly request that definite action be taken at as early a date as possible toward fixing the permanent lines of the Park or the character of the improvement of the river, for the constant discussion and agitation in relation thereto has heretofore, and if continued will hereafter, until it is settled by appropriate action of your Honorable Board, deter improvements upon or in the vicinity, and retard the completion of the Park itself.

Dated, New York, October 2, 1893.

CYRUS CLARK,
President, West End Association.

G. B. SHEPPARD,
Secretary, West End Association.

Mr. Cyrus Clark and Mr. James A. Deering spoke in earnest support of the petition, urging the Board's favorable consideration of the matter.

After some discussion, the Mayor offered the following:

Whereas, The Board of Street Opening and Improvement do approve of, in a general way, the sentiments and opinions set forth in a petition presented to this Board, relating to the water-front along Riverside Park;

RESOLVED, That the said petition be referred to the Department of Public Parks, with the request that a conference be held with property-owners and with the Department of Docks, for the formation of some suitable plan, to be submitted to this Board, for the protection of the several interests.

Which was adopted by the following vote:

Affirmative—The Mayor, the Comptroller, the Commissioner of Public Works, the President of the Department of Public Parks, and the President of the Board of Aldermen—5.

(The foregoing petition was signed by several thousand property-owners and residents of the West Side.)

APPENDIX B.

PROCEEDINGS OF BOARD OF STREET OPENING AND IMPROVEMENT UPON PETITION.

The Board of Street Opening and Improvement met at the Mayor's Office on Friday, January 5, 1894, at 11 o'clock A. M., pursuant to notice.

The following report from the Department of Public Parks, relating to the water-front along Riverside Park, was presented and read:

CITY OF NEW YORK

DEPARTMENT OF PUBLIC PARKS

Nos. 49 and 51 Chambers Street

COMMISSIONERS' OFFICE, December 22, 1893.

To the Board of Street Opening and Improvement:

GENTLEMEN:—In the matter of the petition relating to the water-front along Riverside Park, which accompanied a communication from your Secretary, dated November 20, 1893, transmitting a copy of preamble and resolution of your Board of the 17th ultimo, referring the said petition to this Department and requesting that a conference be held with property-owners and the Department of Docks with a view to the preparation of a suitable plan for the protection of the several interests involved, I am directed to state that at a meeting of the Board of Parks, held on the 20th ultimo, a conference was held with property-owners who appeared in response to a notice of a public hearing, representing the West Side Association and other property-owners, and Commissioner Phelan, representing the Department of Docks. As a result of the conference the following resolutions, which met with the approval of all the parties present, were adopted by the Commissioners of Public Parks:

RESOLVED, That we recommend the plan for the extension of Riverside Park be and the same is hereby approved as follows:

The westerly boundary of said Park be and the same is hereby extended to the bulkhead line of the Hudson River, as established by Chapter 288, of the Laws of 1868, except that the lands required for the purposes of the Dock Department at Seventy-ninth and Ninety-sixth Streets be excluded therefrom, to-wit: eight hundred and twenty-five feet at Ninety-sixth Street and one thousand one hundred feet at Seventy-ninth, and Seventy-ninth and Ninety-sixth Street in each case to be the centre of said dock property, and that all the lands now owned by the City and

private owners (the latter to be acquired) be set apart for the extension of said Park and wharves as aforesaid.

RESOLVED, That a plan be prepared by the Engineer of this Department in accordance with the lines established as aforesaid, to be submitted to the Board of Street Opening and Improvement.

Pursuant to the instructions contained in the foregoing resolutions, the Engineer of the Department has prepared a plan, which is forwarded herewith. I also return the petition, and am,

Yours very respectfully,

CHARLES DE F. BURNS,
Secretary, Department of Public Parks.

After some discussion of the subject and a careful revision of the map or plan submitted, the matter was finally laid over until the next meeting of the Board, and the Secretary was directed to ask for the attendance at such meeting of some representative of the Dock Department, and also of the New York Central & Hudson River Railroad Company.

MEETING OF JANUARY 12, 1894.

The Board of Street Opening and Improvement met at the Mayor's Office on Friday, January 12, 1894, at 11 o'clock, pursuant to notice.

The matter of the proposed extension of Riverside Park was then taken up.

Mr. Beekman appeared on behalf of property-owners, Mr. Loomis on behalf of the New York Central & Hudson River Railroad Company, and Commissioner Phelan on behalf of Dock Department.

No objection to the plan submitted by the Department of Public Parks having been raised, the Mayor offered the following resolution:

RESOLVED, That the plan for the extension of Riverside Park to the bulkhead line in the Hudson River, as shown upon a map entitled "Map showing the proposed extension of Riverside Park, westerly from the New York Central & Hudson River Railroad Company, to the bulkhead line, as established by Chapter 258, of the Laws of 1868, with the exception of lands required for the purpose of the Department of Docks at Seventy-ninth Street and Ninety-sixth Street," dated December 1, 1893, and signed "M. A. Kellogg, Engineer of Construction, Department Public Parks," be and the same is hereby approved by this Board, and that said map be filed with the records of this Board.

RESOLVED, That application be made to the Legislature for the necessary authority to give effect to said plan.

Which was adopted by the following vote:

Affirmative—The Mayor, the Comptroller, the Commissioner of Public Works, the President of the Department of Public Parks, the President of the Board of Aldermen.

Thereupon the following petition was presented to the Legislature of the State of New York:

Pétition to the Legislature of the State of New York of the West End Association and the Riverside Park Property-Owners' Association for the passage of a law providing for the improvement of the land and water front adjacent to Riverside Park, in the City of New York, by extending and improving said Park and regulating the use of said land and water front.

To the Legislature of the State of New York:

The West End Association, composed of residents and owners of real estate at the West End of the City of New York, organized for mutual protection, in aid of good government, and for the improvement and development of that section of the City, respectfully represent to your honorably body:

That, considering the vital, material, local and general interests involved, no more important measure relating to the City of New York will be presented for your consideration than that for the legislative ratification of the plan agreed on between the municipal authorities and the property-owners interested, for the protection and preservation of the water front adjacent to Riverside Park from objectionable and injurious uses, and the extension and improvement of the Park for the general public benefit.

(Here follows several pages of facts relating to Riverside Park and its relation to the West Side, grouped under the following sub-heads):

RIVERSIDE PARK AND ITS GREAT COST TO PROPERTY OWNERS.

GENERAL GRANTS' TOMB IN THE PARK.

DESECRATION OF THE WATER FRONT.

APPROVAL OF THE BOARD OF ESTIMATE AND APPORTIONMENT OF A PLAN OF IMPROVEMENT.

COMMISSION OF CITIZENS APPOINTED TO IMPROVE THE WATER FRONT.

PROFESSIONAL VIEWS AS TO THE WATER FRONT.

THE CLAIMS OF THE WEST END.

THE QUESTION OF COMMERCIAL NEEDS.

A PLAN FINALLY AGREED UPON WITH THE CITY AUTHORITIES.

On November 20, such conference was had which resulted in an agreement that was embodied in a resolution unanimously adopted by the

Commissioners of Parks, which was transmitted to the Board of Street Opening and Improvement. On January 12, 1894, this Board approved of the plan agreed upon and recommended that the necessary legislation be asked for to carry it into effect.

The bill which will be submitted for your consideration is drawn in accordance with this arrangement. We annex the petition of the owners of the property, the minutes of the Board of Street Opening and Improvement, and some extracts from the daily press of the City, to show how fully all interests are united in favor of this vital protection and improvement.

We earnestly appeal for prompt action by your honorable body in the premises.

And your petitioners, etc.

New York, January 22, 1894.

THE WEST END ASSOCIATION.

CYRUS CLARK, *President*.

To the Legislature of the State of New York:

The Riverside Park Property Owners' Association unite in this petition and earnestly request that the bill will receive your early attention and approval.

New York, January 22, 1894.

THE RIVERSIDE PARK PROPERTY
OWNERS' ASSOCIATION,

SAMUEL G. BAYNE, *President*.

(In response to this petition the Legislature thereupon enacted Chap. 152 of the Laws of 1894, extending Riverside Park from the westerly side of the railroad tracks to the Park Commissioners' bulkhead line.)